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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/675,980

09/29/2000

Arthur Zavalkovsky

50325-0106

1727

29989

7590

06/12/2006

HICKMAN PALERMO TRUONG & BECKER, LLP  
2055 GATEWAY PLACE  
SUITE 550  
SAN JOSE, CA 95110

EXAMINER

BATES, KEVIN T

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental  
Notice of Allowability**

Application No.

09/675,980

Examiner

Kevin Bates

Applicant(s)

ZAVALKOVSKY ET AL.

Art Unit

2155

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to December 1, 2005.
2. ☒ The allowed claim(s) is/are 1-18, 21-35, 38-52, and 55-65 renumbered 1-59.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 5-10, 9-24, 5-1, 5-11
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

  
SALEH NAJJAR  
SUPERVISORY PATENT EXAMINER

***Response to Amendment***

This Office Action is in response to a communication received on December 1, 2005.

The Information Disclosure Statements received May 10, 2004, September 24, 2004, May 1, 2006, and May 11, 2006 have been considered.

Claims 1, 3, 5, 7, 9, 11, 13, 14, 24, 25, 41, 42, 58, 59 have been amended.

Claims 19, 20, 36, 37, 53, 54 have been cancelled.

Claims 1-18, 21-35, 38-52, and 55-65 are pending in this application.

***Reason for Allowance***

The following is an examiner's statement of reasons for allowance:

The primary reason for allowance is that the examiner has found that the prior art of record does not teach or suggest or render obvious a method, apparatus, device, or computer readable medium for using a router to mark a data flow with a first behavior value determining the achieved flow then marking the data flow with a second behavior value. More specifically, the prior art does not disclose or teach a network which receives a data flow through a router, having the router mark the data flow with a first behavior value. Then monitoring the achieved data flow and packet flow characteristics in the network and using those values to decide a new behavior value for a router in the system to later mark the data flow with which makes the network treat the data flow in a different manner from the first behavior value. Then continuing to repeat this process as the data flow continues in the network at each hop. These differences are present in

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the specification and are included in the independent claims 1, 5, 9, 13-14, 24-25, 41-42, and 58-59.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Prior Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent No. 6826147 issued to Nandy, because it discloses monitoring achieved data flow in a differentiated services system.

U. S. Patent No. 6028842 issued to Chapman, because it discloses dynamically changing packet classifications based up monitored data.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB

KB

January 12, 2006

  
SALEH NAJJAR  
SUPERVISORY PATENT EXAMINER